

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7866 OF 2014
(arising out of SLP (C) No.9145 of 2012)

THE MANAGEMENT OF TAMIL NADU
STATE TRANSPORT CORPORATION

APPELLANT

VERSUS

P. JAGADEESH

RESPONDENT

WITH

CIVIL APPEAL NO. 7867 OF 2014
(Arising out of SLP(C) No. 9146/2012),

CIVIL APPEAL NO. 7875 OF 2014
(Arising out of SLP(C) No. 9147/2012),

CIVIL APPEAL NO. 7868 OF 2014
(Arising out of SLP(C) No. 9148/2012),

CIVIL APPEAL NO. 7869 OF 2014
(Arising out of SLP(C) No. 9149/2012),

CIVIL APPEAL NO. 7870 OF 2014
(Arising out of SLP(C) No. 9150/2012),

CIVIL APPEAL NO. 7871 OF 2014
(Arising out of SLP(C) No. 13180/2012),

CIVIL APPEAL NO. 7872 OF 2014
(Arising out of SLP(C) No. 16669/2012),

CIVIL APPEAL NO. 7873 OF 2014
(Arising out of SLP(C) No. 16671/2012),

CIVIL APPEAL NO. 7874 OF 2014
(Arising out of SLP(C) No. 16673/2012),

CIVIL APPEAL NO. 7876 OF 2014
(Arising out of SLP(C) No. 16675/2012),

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Vinod Lakhina

CIVIL APPEAL NO. 7877

Date: 2014.08.22

13:49:03 IST

Reason:

OF 2014
(Arising out of SLP(C) No. 16676/2012),

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CIVIL APPEAL NO. 7878 OF 2014
(Arising out of SLP(C) No. 18099/2012),

CIVIL APPEAL NO. 7879 OF 2014
(Arising out of SLP(C) No. 18227/2012),

CIVIL APPEAL NO. 7880 OF 2014

(Arising out of SLP(C) No. 18232/2012),

CIVIL APPEAL NO. 7881 OF 2014
(Arising out of SLP(C) No. 18234/2012),

CIVIL APPEAL NO. 7882 OF 2014
(Arising out of SLP(C) No. 18249/2012)

AND
CIVIL APPEAL NO. 7883 OF 2014
(Arising out of SLP(C) No. 18257/2012)

O R D E R

Leave granted.

2. These appeals are directed against similar judgments and orders passed by the High Court of Madras dismissing the appeals preferred by the Management of Tamil Nadu State Transport Corporation (hereinafter referred to as the "Management"). By the impugned judgment, the Division Bench of the High Court affirmed the order passed by the learned Single Judge and the Award of re-instatement and regularisation of service passed by the Labour Court.

3. The only question involved in these appeals is whether the Labour Court/Tribunal while dealing with the Reference relating to legality of an order of retrenchment, can order regularisation of service while re-instating the workmen.

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4. The factual matrix of the case is as follows:

The respondents-workmen were in service of the appellant-Management. They were retrenched from service giving rise to Industrial Disputes in Labour Court, Coimbatore. The workmen pleaded that they were employed against different posts such as bus cleaners, etc. and suddenly they were prevented from performing their duties. The appellant-Management on their appearance submitted that the appointments of workmen were neither made through employment exchange nor were they appointed pursuant to any advertisement published in the newspapers. According to the appellant, the respondents were not appointed

in accordance with the procedure. However, it was accepted that workmen were in job for about 3 to 9 years. The Labour Court by its Award dated 31st May, 2001 held that the order of retrenchment was passed in violation of Section 25F of the Industrial Disputes Act, 1947. The Management was directed to re-instate the workmen without back wages and to regularise their services.

5. Learned counsel for the appellant submitted that the workmen were on daily wages and were not appointed through employment exchange or pursuant to any advertisement. Therefore, they were not entitled for regularisation of their services.

6. It is not in dispute that the workmen challenged their respective orders of retrenchment on the ground of violation of Section 25F of the Industrial Disputes Act, 1947. No prayer was made nor any reference was made to decide the question of regularisation of services of any of the workmen. Therefore, the

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question of regularisation of the services of the workmen was not issue before the Labour Court.

7. In Gangadhar Pillai vs. Siemens Ltd., (2007) 1 SCC 533, the similar question was considered. In the said case, this Court held as follows:

"28. It is not the law that on completion of 240 days of continuous service in a year, the employee concerned becomes entitled to for regularisation of his services and/or permanent status. The concept of 240 days in a year was introduced in the industrial law for a definite purpose. Under the Industrial Disputes Act, the concept of 240 days was introduced so as to fasten statutory liabilities upon the employer to pay compensation to be computed in the manner specified in Section 25-F of the Industrial Disputes Act, 1947 before he is retrenched from services and not for any other purpose. In the event a violation of the said provision takes place, termination of services of the employee may be found to be illegal, but only on that account, his services cannot be directed to be regularised. Direction to reinstate the workman would mean that he gets back the same status."

8. In view of the observation made above and the finding of this Court in Gangadhar Pillai (supra), we hold that the Labour Court was not justified in directing the Management to

regularise the services of the workmen while passing the order of retrenchment. Both the learned Single Judge and the Division Bench of the High Court failed to notice the abovesaid fact.

9. For the reasons aforesaid, we set aside the part of the impugned Award (s) so far it relates to regularisation of the services of the workmen and upheld the remaining part of the Award of re-instatement declaring the order of retrenchment illegal. The judgment and order passed by the High Court stands modified to the extent above. The appeals are disposed of with

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the aforesaid observation.

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

.....J.
(S.A. BOBDE)

NEW DELHI
JULY 10, 2014.

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ITEM NO.15

COURT NO.6

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 9145/2012
(Arising out of final judgment and order dated 12.10.2011 passed by the Division Bench of the Madras High Court in W.A. No. 1569 of 2011)

MGT.OF TNSTC
Petitioner(s)

VERSUS

P.JAGADEESH
(Prayer for Interim Relief and Office Report)

Respondent(s)

WITH

SLP(C) No. 9146/2012
(With Office Report)

SLP(C) No. 9147/2012
(With prayer for Office Report)

SLP(C) No. 9148/2012
(With Office Report)

SLP(C) No. 9149/2012

(With Office Report)

SLP(C) No. 9150/2012

(With Office Report)

SLP(C) No. 13180/2012

(With prayer for Prayer for Interim Relief and Office Report)

SLP(C) No. 16669/2012

(With Office Report)

SLP(C) No. 16671/2012

(With Office Report)

SLP(C) No. 16673/2012

(With Office Report)

SLP(C) No. 16675/2012

(With Office Report)

SLP(C) No. 16676/2012

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(With Office Report)

SLP(C) No. 18099/2012

(With prayer for Prayer for Interim Relief and Office Report)

SLP(C) No. 18227/2012

(With prayer for Prayer for Interim Relief and Office Report)

SLP(C) No. 18232/2012

(With Office Report)

SLP(C) No. 18234/2012

(With prayer for Prayer for Interim Relief and Office Report)

SLP(C) No. 18249/2012

(With prayer for Prayer for Interim Relief and Office Report)

SLP(C) No. 18257/2012

(With prayer for Prayer for Interim Relief and Office Report)

Date : 10/07/2014 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s) Mr. Sbramonium Prasad,AAG
Mr. R. Ayyam Perumal ,Adv.

For Respondent(s) Mr. Gautam Narayan ,Adv.
Mr. Mubashir Mushtaq, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

Appeals are disposed of in terms of the signed order.

(NEELAM GULATI)

COURT MASTER

(INDU BALA KAPUR)

COURT MASTER

(Signed order is placed on the file)